

MT LEGISLATIVE HISTORY

Chapter 409 1981

Bill (H) 546 S _____

Original bill & hist. ☒ C

H. Committee on Judiciary

S. Committee on Rules

Hearing Date(s) Feb 03 ☒ C

Hearing Date(s) Mar 13 ☒ C

Feb 12 ☒ C

_____ ☐ C

Feb 18 ☒ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

Date Out _____ ☐ C

Mar 14 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

HOUSE BILL NO. 546

INTRODUCED BY PISTORIA, FABREGA, STOBIE,
R. MANNING, TEAGUE, FEDA

IN THE HOUSE

January 28, 1981	Introduced and referred to Committee on Judiciary.
February 18, 1981	Committee recommend bill do pass as amended. Report adopted.
February 19, 1981	Bill printed and placed on members' desks.
February 20, 1981	Motion pass consideration until 43rd legislative day.
February 23, 1981	Second reading, do pass.
February 24, 1981	Correctly engrossed.
February 25, 1981	Third reading, passed. Ayes, 87; Noes, 4. Transmitted to Senate.

IN THE SENATE

March 3, 1981	Introduced and referred to Committee on Rules.
March 14, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 17, 1981	Motion pass consideration.
March 18, 1981	Second reading, concurred in.
March 20, 1981	Third reading, concurred in as amended. Ayes, 48; Noes, 0.

IN THE HOUSE

March 21, 1981

Returned from Senate with amendments.

April 7, 1981

Second reading, amendments concurred in.

On motion to take Senate amendments to HB 546 from third reading and refer back to second reading. Motion adopted.

April 8, 1981

Second reading, amendments concurred in.

April 9, 1981

Third reading, amendments concurred in. Ayes, 83; Noes, 9. Sent to enrolling.

Reported correctly enrolled.

HOUSE BILL NO. 546

INTRODUCED BY

Historic

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE MOTOR VEHICLE MANDATORY LIABILITY PROTECTION LAW BY REQUIRING CERTIFICATION OF POSSESSION OF INSURANCE AND CARRYING OF AN INSURANCE CARD ISSUED BY AN INSURANCE CARRIER; BY REMOVING THE EXEMPT STATUS OF MOTORCYCLES; BY INCREASING THE PENALTIES; AND AMENDING SECTIONS 61-6-302 THROUGH 61-6-304, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-6-302, MCA, is amended to read:

"61-6-302. Proof of compliance. (1) Before any applicant required to register his motor vehicle may do so, the applicant must certify and display to the county treasurer ~~that he possesses~~ an automobile liability insurance policy, a certificate of self-insurance, or a posted indemnity bond, or ~~eligibility that he is eligible~~ for an exemption under 61-6-303 covering the motor vehicle. The certification shall be on a form prescribed by the division of motor vehicles. The division may immediately cancel the registration and license plates of the vehicle upon notification that the insurance certification was not correctly represented. Any person who intentionally provides

false information on an insurance certification is guilty of unsworn falsification to authorities punishable as provided in 45-7-203.

(2) An owner of a motor vehicle who ceases to maintain the insurance or bond required or whose certificate of self-insurance is canceled or whose vehicle ceases to be exempt shall immediately surrender the registration and license plates for the vehicle to the county treasurer for delivery to the division and may not operate or permit operation of the vehicle in Montana until insurance has again been furnished as required and the vehicle is again registered and licensed.

(3) Every person shall carry in a motor vehicle being operated by him an insurance card approved by the division but issued by the insurance carrier to the motor vehicle owner as proof of compliance with 61-6-301. A motor vehicle operator shall exhibit the insurance card upon demand of a justice of the peace, a peace officer, a highway patrolman, or a field deputy or inspector of the division. However, no person charged with violating this subsection may be convicted if he produces in court or the office of the arresting officer proof of insurance valid at the time of his arrest."

Section 2. Section 61-6-303, MCA, is amended to read:

"61-6-303. Exempt vehicles. The following vehicles and

1 their drivers are exempt from the provisions of 61-6-301:

2 (1) a vehicle owned by the United States government or
3 any state or political subdivision;

4 (2) a vehicle for which cash, securities, or a bond
5 has been deposited or filed with the division upon such
6 terms and conditions providing the same benefits available
7 under a required motor vehicle liability insurance policy;

8 (3) a vehicle owned by a self-insurer certified as
9 provided in 61-6-143;

10 (4) an implement of husbandry or special mobile
11 equipment that is only incidentally operated on a highway or
12 property open to use by the public;

13 (5) a vehicle operated upon a highway only for the
14 purpose of crossing such highway from one property to
15 another;

16 (6) a commercial vehicle registered or proportionally
17 registered in this and any other jurisdiction provided that
18 vehicle is covered by a motor vehicle liability insurance
19 policy complying with the laws of another jurisdiction in
20 which it is registered;

21 ~~{7}--a-motorecyet~~

22 ~~{8}{11}~~ a vehicle moved solely by human or animal
23 power."

24 Section 3. Section 61-6-304, MCA, is amended to read:

25 "61-6-304. Penalties. It is unlawful for any person to

1 operate a motor vehicle upon highways, streets, or roadways
2 of this state without a valid policy of liability insurance
3 in effect in an amount not less than that provided in
4 61-6-301 or unless such person has been issued a certificate
5 of self-insurance pursuant to [61-6-302] or has previously
6 posted an indemnity bond with the [commissioner of
7 insurance] as provided by 61-6-301 or is operating a vehicle
8 exempt under 61-6-303. A violation of 61-6-301 through
9 61-6-304 is a misdemeanor punishable--as--provided--in
10 61-6-601."

-End-

MINUTES OF THE MEETING OF THE JUDICIARY COMMITTEE
February 3, 1981

The meeting of the Judiciary Committee was called to order by Chairman Kerry Keyser at 8:00 a.m. in Room 437 of the Capitol. All committee members were present except Rep. Daily and Rep. Teague, who both showed up shortly after the meeting started. Jim Lear, Legislative Council, was present.

HOUSE BILL 546 REP. PISTORIA, stated this was a bill to revise the motor vehicle mandatory liability protection law by requiring certification of possession of insurance. During the '77 session House Bill 708 became law. The bill has been criticized because it is not strict enough. The bill was amended and it was weakened. The bill was a copy of an Idaho law with added Montana measures. House Bill 546 is the exact same bill as last session except line 16 on page 1 has been changed to must certify and the words "and display" are to be deleted. REP. PISTORIA noted to the committee other areas which are to be deleted and added to the bill.

When a person goes to get insurance the insurance company would give the person a card and notify the licensing department.

REP. PISTORIA felt the bill would be easy to amend. The demand by the public is cancellations.

EMERY GEYER supports the bill.

LARRY MAJERIS, Motor Vehicles, supports the bill.

LARRY TOBIASON supports this bill. He stated it is really cheaper to violate the law then to pay for insurance. He questioned the proper procedure of the use of the card. It is to be approved by the division, does this mean every insurance organization will have to buy the exact paper and make the cards the same? TOBIASON stated insurance can be obtained for 6 months, 1 year or 2 years. A person can obtain insurance and cancel it. The certificate he carries would be good for one year. Should insurance companies notify the registrar's office each time an insurance policy is cancelled? Fifty percent of the car owners insured do not reside within the local distance of their office. Notices would have to be mailed out which would be an added expense to the companies.

There were no other proponents.

There were no opponents.

In closing, REP. PISTORIA stated this is a controversy and something has to be done. He hopes the subcommittee can work out amendments.

REP. SEIFERT asked if there was any litigation going on because it is unconstitutional in Montana. REP. PISTORIA felt that every law passed was unconstitutional.

There were no further questions.

HOUSE BILL 444 REP. KEEDY stated this bill is to promote free and open competition and to preserve the free-enterprise market system. It is to help small businessmen and consumers. A bill similar to this has been adopted recently in the jurisdictions of New Mexico, Utah, Florida and Arizona. Montana needs a law to control interest and a statute which will supplement the law pursuing illegal activities. The bill entitles the small businessman the right to bring civil actions and recover damages. If we continue to allow violations to go unchecked it will result in higher prices. It will force the small businessman out of business and the larger businesses and corporations will monopolize the market.

JEROME CATE, Attorney General's office, gave written testimony from which he read. EXHIBIT 1.

MIKE GREELY, Attorney General, stated he was chairman for the Antitrust Committee of the National Association, which has representatives from the 50 states and 4 districts. In 1976 congress permitted states to do their own work on antitrust suits. As a result they provided money to the states. Seventeen states started a new system. The objective was to educate the public and bring it to their attention. Strict enforcement has only been a short time. GREELY feels an important factor of the bill is the exclusions.

TOM HONZEL, County Attorneys, supports the bill. These types of cases are often difficult to investigate and prepare.

DOUG STEWART, Missoula, stated he has had experience with an antitrust case with his competition. The competition raised their price on a particular commodity. Before the state could get involved he had to go through a lot of investigations by the federal antitrust department. Basically name calling and threats took place. STEWART stated this type of practice is taking place now and the small businessman is often put out of business. The competition raises their price and when the other business drops out the competition lowers the price. STEWART feels this bill would help the small businessman.

VALENCIA LANE, Insurance Department, supports the concept of the bill but would like insurance companies excluded. EXHIBIT 2.

February 7, 1981

HOUSE BILL 165

REP. SEIFERT moved to recommend to the committee do not pass.
The motion passed unanimously.

HOUSE BILL 226

REP. BROWN moved to recommend to the committee do not pass.
The motion passed unanimously.

HOUSE BILL 284

REP. SEIFERT moved to accept the amendments as attached.
The motion passed unanimously.

HOUSE BILL 546

REP. SEIFERT moved to bring this back to the committee to discuss
the matter of carrying the insurance card. The motion passed
unanimously.



REP. CARL SEIFERT

mr

Attachment

EXECUTIVE SESSION

The House Judiciary Committee went into executive session at 10:20 a.m.

REP. ANDERSON moved the committee request a committee bill concerning immunity for state employees or employees of governmental agencies. Schoolboard trustees are not as individuals acting as a board of trustees. That goes way beyond actual damages. There is insurance to cover damages. Trustee members are being sued for punitive damages.

The committee was in favor of the motion.

HOUSE BILL 676 REP. DAILY moved the committee hold this bill until people from the state treasurer's office could answer a few questions. The committee agreed.

HOUSE BILL 546 REP. BROWN moved do pass. The subcommittee minutes were handed out. EXHIBIT 7. REP. BROWN said this bill basically rejects the concepts of the other two bills. No recommendation was made on this bill because of the card provision.

REP. MATSKO moved on page 4, line 10 following "61-3-604" insert: "punishable as provided in 46-18-212". The motion carried.

REP. MATSKO moved the bill be passed as amended. The motion passed unanimously.

REP. HANNAH moved the committee reconsider their actions on House Bill 546. REP. HANNAH stated Larry Magerus of the Department of Justice indicated that the department was interested in seeing that the law allow officers to ask people for insurance cards. It creates problems because they have to produce cards for everything. It will not accomplish anything.

REP. BROWN stated this will not bother the insurance companies. Under the present system if you are stopped for a moving violation they can ask you about insurance. REP. EUDAILY stated the effective date on his card never changes. It would be better to have a receipt than a card. Other committee members did not see that as a problem.

REP. HANNAH withdrew his motion.

HOUSE BILL 165 REP. SEIFERT moved do not pass.

REP. MATSKO made a substitute motion of do pass. REP. MATSKO moved to amend page 1, line 19 and 20. Following "misdemenaor" plan a "."

1. Title, line 7.
Following: "INSURANCE POLICY"
Strike: "; AMENDING SECTION 51-6-103, MCA"
Insert: "."

2. Pages 1 through 7.

Strike: all of the bill following the enacting clause

Insert: "NEW SECTION. Section 1. Limitation of liability under motor vehicle liability policy. (1) Unless a motor vehicle liability policy specifically provides otherwise, the limits of insurance coverage available under any such policy, including the limits of liability under uninsured motorist coverage, shall be determined as follows, regardless of the number of vehicles insured under the policy:

(a) the limit of insurance coverage available for any one accident shall be the limit specified for the vehicle involved in the accident;

(b) if no vehicle insured under the policy is involved in the accident, the limit of insurance coverage available for any one accident shall be the highest limit of coverage specified for any one vehicle insured under the policy; and

(c) the limits of coverage specified for each vehicle insured under the policy shall not be added together to determine the limit of insurance coverage available under the policy for any one accident.

(2) A motor vehicle liability policy may also provide for other reasonable limitations, exclusions, or reductions of coverage which are designed to prevent:

(a) duplicate payments for the same element of loss;
or

(b) providing insurance coverage for a vehicle owned by a policyholder but not insured under the same policy.

Section 2. Codification instruction. Section 1 is intended to be codified as an integral part of Title 33, Chapter 23, part 2, and the provisions of Title 33, chapter 23, part 2, apply to section 1."

-END-

546

Date 2/02/81

 $\mathbb{R}$

Pistoria

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES OF THE
RULES COMMITTEE
March 13, 1981

The Senate Rules Committee met Friday, March 13, 1981 in Room 681 of the State Capitol. Senator Stan Stephens, Chairman, called the meeting to order at 2:05 p.m.

2:05 p.m.

All members were present.

ACTION TAKEN ON H.B. 546

"TO REVISE THE MOTOR VEHICLE MANDATORY LIABILITY PROTECTION LAW BY REQUIRING CERTIFICATION OF POSSESSION OF INSURANCE".

H.B. 546 was sent to Rules by President Turnage for a ruling on whether the material in this bill is the same as a similar bill (S.B. 351) killed in the Senate earlier in this session of the legislature. Representative Pistoria introduced the bill. He testified that his bill is basically the same as three other bills introduced in the House, and the House State Administration Committee decided his bill was the one they wanted to send to the Senate without having to amend it.

Senator Holstad stated that motorcycles have never been in the statutes before and he would like to see them amended out of the bill. He explained that farmers and ranchers use them in their business and he feels they should exempt motorcycles.

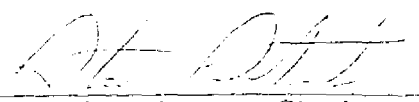
Senator Turnage stated he had no quarrel with the bill, but he feels the penalties are too stiff for a misdemeanor. He asked if perhaps insurance companies were behind this legislation.

Chairman Stephens reminded the committee that we are only here for a ruling on whether H.B. 546 should be allowed in the Senate. The consensus was that if the motorcycles were amended out, then, yes it would comply.

Senator Turnage suggested that the bill be amended in this Committee before we make a ruling.

Senator Turnage moved to strike section 2 in its entirety. Further, amend section 3, page 4, lines 10 and 11 following misdemeanor by adding punishable by a fine of \$250.00. And, amend the Title to strike "BY REMOVING THE EXEMPT STATUS OF MOTORCYCLES;" and, so amended be concurred in, and referred to the appropriate committee. Motion carried.

Meeting adjourned at 3:00 p.m.


Stan Stephens, Chairman

47th LEGISLATIVE SESSION - - 1981

Date 3.13.81

NAME	PRESENT	ABSENT	EXCUSED
Stan Stephens, Chairman	✓		
Frank Hazelbaker, V. Chrm.	✓		
Jean Turnage	✓		
Allen Kolstad	✓		
Ed Smith	✓		
Jack Galt	✓		
Chet Blaylock	✓		
Bill Norman	✓		
Carol Graham	✓		
Paul Boylan	✓		

Each day attach to minutes.

March 14, 19 31

MR. PRESIDENT

We, your committee on SENATE RULES

having had under consideration HOUSE BILL Bill No. 546

Respectfully report as follows: That HOUSE BILL Bill No. 546
be amended as follows:

1. Title, lines 8 and 9.

Following: "CARRIER;"

Strike: "BY REMOVING THE EXEMPT STATUS OF MOTORCYCLES;"

2. Title, line 10.

Following: "61-G-302"

Strike: "THROUGH"

Insert: "AND"

3. Page 2, line 25 through page 3, line 24.

Strike: Section 2 in its entirety.

4. Page 4, line 11.

Following: "PUNISHABLE"

Strike: "AS PROVIDED IN 46-18-212"

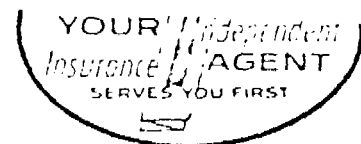
Insert: "by a fine not to exceed \$250"

And, as so amended,

DO PASS.

BE CONCURRED IN

OR



BILLS AFFECTING INSURANCE LAWS THAT
MAY BE INTRODUCED IN THE
UP-COMING 1981 LEGISLATURE

1. Compulsory Auto Insurance Law "Corrections"

COMMENTS: The 1979 Legislature passed a much-amended compulsory auto insurance law.

CHANGES NEEDED:

- A. Eliminate the necessity of person to supply evidence of insurance when applying for auto license plates - and instead require person, when applying for auto plates, to sign a statement certifying that he has the required insurance in effect and verifying he will keep such insurance in effect; and that he will surrender the plates if he allows the insurance to lapse.
- B. The law should cause the auto owner to acknowledge that he understands and agrees to be automatically guilty of a misdemeanor if he knowingly drives an auto that does not have current insurance applying to that auto as required by law.
- C. The fine for being guilty of this misdemeanor should be raised to an amount high enough to prove effective - say \$500.
- D. Require insurance companies to supply the insureds the "Evidence of Insurance" card that should then be required to be carried in the auto. Failure to have such evidence of insurance in each car with active plates could be handled in a similar manner to enforcing a driver to carry a driver's license.
- E. Fund the Highway Patrol adequately to carry out the duty of securing the plates on autos on which the insurance has lapsed.
- F. Clarify the law to require the Highway Patrol, City Police or other enforcement personnel - all who may be charged with traffic law enforcement - to issue the appropriate citations for lapsed insurance or missing insurance evidence whenever such becomes known to law officers.

2. Workers Compensation Law Changes.

A. Expand the Classification and Rating (C&R) Committee.

COMMENT: Need to expand to seven members to include membership from Workers Comprehensive Division, Insurance Companies, and Agents.

B. Spread premium tax over all Workers Compensation premiums (both private company and State Fund premiums)

COMMENT: Cut in half the tax (2.75%) on private company premiums and put an equal (1.375%) premium tax on the State Fund policy premiums. This would help correct an inequity between the two plans without reducing the tax income to the State.

C. Remove dollar amounts from Workers Compensation law that pertain to payroll limitations for figuring premiums for corporate officers and sole proprietors. Let the C&R Committee adjust these payroll amounts.

COMMENT: This is a housekeeping matter to make the law more realistic as dollar values change in our economy.

3. Bill to prohibit "stacking" of Uninsured Motorist benefits.

COMMENT: -Uninsured Motorist benefits are actually excess (higher limits) medical payments that are paid to an injured party when his person or car is struck by an auto that is un-insured and its driver is adjudged the party in the wrong in the collision.
 -The Uninsured Motorist benefits were legislated in Montana to impliment higher limits of medical expense coverage when persons are struck by uninsured motorists. Stacking of the benefits was not figured in the premium computations nor was stacking intended.
 -If stacking is allowed, then the premiums to the consumer will increase.

4. Bill to put a statute of limitations (time limit) on Products Liability.

COMMENT: -We feel this is necessary to put a "reasonable" time factor in this area.
 -We also feel the bill should address the product modification side of the issue.
 -With a reasonable time limit and product modification limitation, the availability of market and lower premiums will be assured to our Montana insurance consumers.

5. Bill to prohibit the courts from awarding Punitive Damages in most cases.

COMMENT: -This is not an insurance item for it is not an insurable risk.
 -It is actually an imposing of a financial penalty - probably assessed against persons or companies who are deemed "more able to pay". Hardly a case of "equality under the law".

6. Bills to assure the Montana insurance consumers have the broadest and most open insurance contracts available to them.

COMMENT: Repeal the Policy Countersignature law and substitute more workable regulations on policies written by out-of-state firms on risks in Montana.

- (a) require premium tax to be paid on all such business.
 - (b) require state income tax to be paid on all income derived on all such business.
 - (c) institute large fines and expulsion from the State on all firms who violate the tax requirements.
- Allow a more liberal licensing of out-of-state insurance agencies for writing insurance business in the State.
- (a) Non-resident licensing laws have been efforts to restrict the out-of-state agents from writing insurance on risks in our state. It is hard to enforce, provincial in nature protectionism in action, and unrealistic. Qualified Montana insurance agents can compete with any out-of-state firms a do not seek such protectionist legislation.

-Change laws concerning consulting and brokering services to allow the writing of insurance contracts for clients for which such risk management services are also performed.

(a) Risk Management/Loss Prevention services are becoming increasingly important in today's world of insurance.

(b) We feel our Montana laws unrealistically prohibit the contracting by professional insurance agencies with the clients the delivering of risk management/loss control services.

(c) Written contracts, spelling out the services and charges for such, can be required so the insured knows the full costs and services to expect, in addition to knowing that the agent may also be getting a commission on insurance contracts he may also write for the insured.

COMMENT: -We feel the Montana insurance consumer can best benefit from an open insurance market - not a market closed in by false, provincial legislation designed to "protect" the agents of the state.

-Proper safeguards and requirements can be written into the laws to prevent abuses by out-of-state agents, collect the taxes rightfully due on all such insurance, strengthen the enforcement muscle of the Commissioner's office on this business and yet allow an honest, open and competitive insurance market to exist for our Montana consumers.

-Appropriate financial safeguards can be instituted to require adequate deposits and other indemnity to be controlled by the State so that our consumers will be assured financial solvency of the insurance companies protecting all Montana property and casualty risks. Such safeguards can also address the Guarantee Fund situation to assure equitable payment into the Fund by all companies writing business in Montana, including "so called" Surplus Lines companies.

NOTE: Cover other possible bills the legislators may want to discuss.